

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Edward Tsigel	Team: Squad #4	CCRB Case #: 201907537	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 08/24/2019 1:39 AM	Location of Incident: Flatbush Avenue and Duryea Place	Precinct: 70	18 Mo. SOL 2/24/2021	EO SOL 10/11/2021	
Date/Time CV Reported Sat, 08/24/2019 2:44 AM	CV Reported At: Precinct	How CV Reported: Phone	Date/Time Received at CCRB Sat, 08/24/2019 2:44 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jenson Raju	19536	959110	070 PCT
2. POF Wardah Iqbal	02622	963578	070 PCT
3. POM Kerwin Adames	12777	963356	070 PCT
4. POF Cabrini Barnes	08599	959474	070 PCT
5. POF Ebony Cunningham	12260	959574	070 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM John Veloz	25361	967382	REC TNG
2. POF Peggy Alves	27641	903331	070 PCT
3. POM Eddy Acosta	06440	961593	070 PCT
4. POF Amy Johnson	26550	965224	070 PCT
5. POM Jair Flores	22120	959637	070 PCT
6. POM Michael Velasquez	04533	964824	070 PCT
7. POF Elisa Battista	00178	959481	070 PCT
8. POM Mohamed Mozeb	09587	959832	070 PCT
9. POF Marika Williams	04520	961581	070 PCT
10. POM Kyle Brown	16513	957405	070 PCT
11. POF Kimberly Lewis	05389	960803	070 PCT
12. SGT Carlo Chu	02043	941560	070 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Kerwin Adames	Abuse: Police Officer Kerwin Adames stopped the vehicle in which § 87(2)(b) was an occupant.	
B.POF Wardah Iqbal	Abuse: Police Officer Wardah Iqbal stopped the vehicle in which § 87(2)(b) was an occupant.	
C.POM Kerwin Adames	Abuse: Police Officer Kerwin Adames stopped § 87(2)(b)	
D.POF Wardah Iqbal	Abuse: Police Officer Wardah Iqbal stopped § 87(2)(b)	
E.POF Ebony Cunningham	Abuse: Police Officer Ebony Cunningham questioned § 87(2)(b)	
F.POF Ebony Cunningham	Abuse: Police Officer Ebony Cunningham frisked § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
G.POM Jenson Raju	Abuse: Police Officer Jenson Raju searched the vehicle in which § 87(2)(b) was an occupant.	
H.POF Cabrini Barnes	Abuse: Police Officer Cabrini Barnes searched the vehicle in which § 87(2)(b) was an occupant.	
I.POM Kerwin Adames	Abuse: Police Officer Kerwin Adames searched the vehicle in which § 87(2)(b) was an occupant.	
J.POM Kerwin Adames	Abuse: Police Officer Kerwin Adames failed to provide § 87(2)(b) with a business card.	
K.POF Wardah Iqbal	Abuse: Police Officer Wardah Iqbal failed to provide § 87(2)(b) with a business card.	
L.POF Ebony Cunningham	Abuse: Police Officer Ebony Cunningham failed to provide § 87(2)(b) with a business card.	
§ 87(4-b), § 87(2)(g)		

### Case Summary

On August 24, 2019, § 87(2)(b) filed this complaint at the 63<sup>rd</sup> Precinct stationhouse. On August 26, 2019, this complaint was received at the CCRB.

On August 24, 2019, at approximately 1:39 AM, at the intersection of Flatbush Avenue and Duryea Place in Brooklyn, Police Officer Kerwin Adames and Police Officer Wardah Iqbal, both of the 70<sup>th</sup> Precinct, responded to a dispute involving a knife (BR 13). PO Adames and PO Iqbal stopped a dollar van (**Allegations A and B - Abuse of Authority - § 87(2)(g)**). PO Adames and PO Iqbal entered the dollar van and stopped § 87(2)(b) (**Allegations C and D - Abuse of Authority - § 87(2)(g)**). Police Officer Ebony Cunningham, of the 70<sup>th</sup> Precinct, questioned and frisked § 87(2)(b) (**Allegations E and F - Abuse of Authority - § 87(2)(g)**). Police Officers Jenson Raju, Cabrini Barnes, and Kerwin Adames, of the 70<sup>th</sup> Precinct, searched the dollar van (**Allegations G, H, and I - Abuse of Authority - § 87(2)(g)**).

PO Adames, PO Iqbal, and PO Cunningham did not provide § 87(2)(b) with a business card (**Allegations J, K, and L - Abuse of Authority - § 87(2)(g)**).

§ 87(4-b), § 87(2)(g)

No arrests were made, or summons issued as a result of this incident.

The CCRB received sixteen Body Worn Camera (BWC) videos of the incident (IA 54-70).

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Police Officer Kerwin Adames stopped the vehicle in which § 87(2)(b) was an occupant.**

**Allegation (B) Abuse of Authority: Police Officer Wardah Iqbal stopped the vehicle in which § 87(2)(b) was an occupant.**

**Allegation (C) Abuse of Authority: Police Officer Kerwin Adames stopped § 87(2)(b)**

**Allegation (D) Abuse of Authority: Police Officer Wardah Iqbal stopped § 87(2)(b)**

§ 87(2)(b) (BR 01) stated that he was traveling home alone, late at night, when he exited a subway station and waited for a dollar van to pick him up. § 87(2)(b) did not interact with anyone while waiting for the dollar van. Several minutes later, a dollar van arrived, and § 87(2)(b) entered it. There were several other passengers in the dollar van. After driving for several blocks, a marked police vehicle stopped the dollar van. Two officers entered the dollar van, pointed to § 87(2)(b) and requested that he get up and exit the dollar van. § 87(2)(b) initially refused to follow the officers' instructions. The officers then approached him, handcuffed him, and escorted him out of the dollar van.

PO Adames (BR 02) and PO Iqbal (BR 03) stated that they were on patrol in a marked police vehicle, when they received a radio call of a dispute involving a suspect using a knife to threaten someone. The suspect was described as a Black male, who was wearing a white or grey shirt, black or dark blue pants, and had a black backpack. While driving to the reported location, they saw a black male running on the sidewalk. That male looked at the officers, pointed to a dollar van in the distance, and yelled, "He's in that van." The officers saw a dollar van in the distance and pulled it over. PO Adames and PO Iqbal then entered the van and saw § 87(2)(b) who matched the description that they were provided. No other individual on the dollar van matched the description. PO Adames and PO Iqbal requested that § 87(2)(b) get up and exit the dollar van. § 87(2)(b) refused to do so. PO Adames and PO Iqbal approached § 87(2)(b) handcuffed him, and escorted him off of the van.

Between 0:50 and 1:58 of the 911 call (BR 06), the 911 caller provides a description of the individual with a knife, which is consistent with the description mentioned above. The 911 caller states that the individual entered a white dollar van. Between 3:55 and 4:05, the 911 caller is heard yelling "That dollar van over there." The 911 caller then confirms to the 911 operator that he made that statement towards police officers at the scene.

Between 0:25 and 2:00 of the radio communications (BR 07), the 911 operator provides

officers with the description of the individual with a knife, which is consistent with the description mentioned above. The 911 operator tells the officers that the individual entered a white dollar van.

From 0:55 to 3:10 of PO Adames' BWC footage (BR 08), PO Adames is seen entering the white dollar van, pointing out § 87(2)(b) and telling him to get out of the van. No other individual seen in the dollar van matched the description that was provided. The BWC footage is consistent with the statements that § 87(2)(b) and both officers provided.

PO Iqbal prepared a Stop Report regarding this incident (BR 05). PO Iqbal noted that the 911 caller provided a description of the suspect and that the suspect entered a white dollar van. PO Adames and PO Iqbal stopped and entered the white van and saw § 87(2)(b) who matched the description that they were provided.

As per People v. May 81 N.Y.2d 725 (BR 14) an officer may stop a vehicle to investigate criminal activity when he has a reasonable suspicion that its occupants have been engaged in conduct in violation of the law.

As per Patrol Guide Procedure 212-11 (BR 15) if an officer has reasonable suspicion that an individual has committed a crime, they may stop and detain the person for the purpose of conducting a criminal investigation. A statement from a victim constitutes reasonable suspicion.

§ 87(2)(g)

**Allegation (E) Abuse of Authority: Police Officer Ebony Cunningham questioned § 87(2)(b)**

**Allegation (F) Abuse of Authority: Police Officer Ebony Cunningham frisked § 87(2)(b)**

§ 87(2)(b) (BR 01) stated that he was escorted off of the dollar van and was frisked from his ankles to his waist. § 87(2)(b) told the officers that he did not have a knife on him, and he provided consent to search his bag. PO Barnes then told § 87(2)(b) that he was not who the person they were looking for, and he was uncuffed and told that he could leave.

PO Cunningham (BR 04) stated that § 87(2)(b) was already stopped when she arrived to the scene. PO Cunningham asked § 87(2)(b) "Do you have a knife or anything on you?" PO Cunningham then frisked § 87(2)(b) and his black backpack because he matched the description reported in the dispute involving a knife. PO Cunningham did not find anything on § 87(2)(b) as a result of the frisk. After it was confirmed that § 87(2)(b) was not the perpetrator with a knife, he was uncuffed and told that he was allowed to leave.

PO Cunningham's BWC footage (BR 09), between 1:30 and 3:00, shows her frisking § 87(2)(b) and his backpack. The footage is consistent with the statements provided by § 87(2)(b) and PO Cunningham.

As per Patrol Guide Procedure 212-11 (BR 15) officers may ask accusatory questions related to the reason for the stop. Additionally, officers may frisk the stopped person for a deadly weapon if they have reasonable suspicion that the person is armed and dangerous. A statement from a victim constitutes reasonable suspicion.

§ 87(2)(g)

**Allegation (G) Abuse of Authority: Police Officer Jenson Raju searched the vehicle in which § 87(2)(b) was an occupant.**

**Allegation (H) Abuse of Authority: Police Officer Cabrini Barnes searched the vehicle in which § 87(2)(b) was an occupant.**

**Allegation (I) Abuse of Authority: Police Officer Kerwin Adames searched the vehicle in which § 87(2)(b) was an occupant.**

After § 87(2)(b) was escorted off of the dollar van, PO Raju, PO Barnes, and PO Adames searched the van. Between 1:55 and 2:40 of PO Raju's BWC footage (BR 10), between 1:35 and 2:25 of PO Barnes' BWC footage (BR 11), and between 3:15 and 4:00 of PO Adames' BWC footage (BR 08), each officer can be seen entering the dollar van and searching the area in which § 87(2)(b) was sitting.

According to New York Penal Law Section 240.00 (BR 16), a public place is defined as a place to which the public or a substantial group of persons has access, and includes but is not limited to a transportation facility. A transportation facility, including a bus, is defined as a premises or place in connection with public passenger transportation.

§ 87(2)(g)

**Allegation (J) Abuse of Authority: Police Officer Kerwin Adames failed to provide § 87(2)(b) with a business card.**

**Allegation (K) Abuse of Authority: Police Officer Wardah Iqbal failed to provide § 87(2)(b) with a business card.**

**Allegation (L) Abuse of Authority: Police Officer Ebony Cunningham failed to provide § 87(2)(b) with a business card.**

§ 87(2)(b) (BR 01) did not ask for a business card nor did he receive a business card from any officer. Neither PO Adames nor PO Iqbal nor PO Cunningham provided § 87(2)(b) a business card. PO Adames (BR 02) stated that he was more focused on assessing the situation during the job instead of giving § 87(2)(b) a business card. PO Cunningham (BR 04) stated that she did not provide § 87(2)(b) with a business card because he did not ask her for one.

PO Iqbal noted in the Stop Report (BR 05) that § 87(2)(b) was stopped because he matched the description of a suspect in a knife dispute. It was determined that § 87(2)(b) was not the perpetrator with a knife and was let go. PO Iqbal stated that § 87(2)(b) left the scene before she was able to provide him a business card.

As per New York City Administrative Code §14-174 (BR 17) officers are required to offer a business card to any person at the conclusion of law enforcement activity, including pedestrian stops in which an officer has reasonable suspicion that the stopped person has committed a crime, and to any person who has been frisked, that does not result in an arrest or summons.

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 19).
- Police Officer Kerwin Adames has been a member of service for two years and has been a subject in one other CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)
- Police Officer Wardah Iqbal has been a member of service for two years and this is the first CCRB complaint to which she has been a subject.
- Police Officer Ebony Cunningham has been a member of service for four years and has been a subject in two other CCRB complaints and four allegations, none of which were substantiated. § 87(2)(g)
- Police Officer Jenson Raju has been a member of service for four years and this is the first CCRB complaint to which he has been a subject.
- Police Officer Cabrini Barnes has been a member of service for four years and has been a subject in one other CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)

### **Mediation, Civil and Criminal Histories**

- § 87(2)(b) accepted mediation. On October 25, 2019, this case was sent to mediation and on November 25, 2019 this case was returned to investigation as the complaint was no longer suitable for mediation.
- As of February 21, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to this complaint (BR 20).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (BR 21).

Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date